

**TOWNSHIP OF LOWER MACUNGIE**  
Lehigh County, Pennsylvania

**RESOLUTION NO. 2023-46**  
(Duly Adopted August 17, 2023)

RESOLUTION APPROVING A JUST COMPENSATION  
SETTLEMENT AGREEMENT WITH RONALD R. MUSE IN  
REGARD TO THE CONDEMNATION OF REQUIRED RIGHT-  
OF-WAY AND A GRADING EASEMENT ON THE  
PROPERTY LOCATED AT 7800 CREAMERY ROAD IN  
CONJUNCTION WITH THE SAUERKRAUT LANE  
EXTENSION PROJECT

**WHEREAS**, consistent with prior plans, approvals and authorizations, and after investigation, inquiry, and analysis, the Board of Commissioners of Lower Macungie Township (“Township”) determined that it was in the interest of the traveling public, and a benefit for the present and future use of the Township’s citizens, to widen State Route 100 and construct an extension of Sauerkraut Lane in the Township (collectively the “Sauerkraut Lane Extension”); and

**WHEREAS**, in conjunction with the Sauerkraut Lane Extension, certain portions of the property located at 7800 Creamery Road, Alburts, Lower Macungie Township, Pennsylvania 18011, being Lehigh County tax parcel identification number 546461698437-1 (the “Property”), owned by Ronald R. Muse (“Muse”), were needed for required right-of-way and a grading easement (the “Property Interests”); and

**WHEREAS**, pursuant to the Pennsylvania First Class Township Code (53 P.S. § 56901, et seq.) and Eminent Domain Code (26 Pa.C.S. § 101, et seq.), on August 6, 2021 the Township filed a Declaration of Taking condemning the Property Interests (the “Condemnation”); and

**WHEREAS**, in an effort to avoid the time and expense of further litigation in connection with the Condemnation, the Township thereafter began negotiating with Muse for an amicable resolution of all just compensation, damages, and fees pertaining to the Property Interests acquired by the Township; and

**WHEREAS**, the Township and Muse reached an agreement on all such compensation, which is set forth in the Just Compensation Settlement Agreement attached hereto as Exhibit “A” and incorporated herein by reference as if set forth at length (the “Muse Agreement”); and

**WHEREAS**, the compensation to be paid under the Muse Agreement is being funded through certain prior development agreements, settlements, escrows and reimbursements to the Township as part of the Sauerkraut Lane Extension project; and

**WHEREAS**, the Township desires to authorize the Township Manager to execute the Muse Agreement and make the payment required thereunder on behalf of the Township.

**NOW, THEREFORE, BE IT ADOPTED AND RESOLVED** that the Board of Commissioners of Lower Macungie Township hereby resolves as follows:

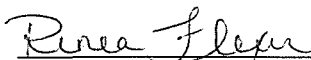
1. The foregoing recitals are incorporated herein by reference.
2. The Township Manager is hereby authorized on behalf to the Township to execute the Muse Agreement attached hereto as Exhibit "A."
3. The Township Solicitor and Township Manager are authorized and directed to take all such action as may be necessary and appropriate to implement this Resolution and the Muse Agreement, including making any necessary payments thereunder.
4. All resolutions or parts thereof inconsistent herewith are hereby repealed to the extent of any such inconsistency.
5. This Resolution shall become effective immediately upon adoption.

**DULY ADOPTED** this 17th day of August 2023, by the Board of Commissioners of Lower Macungie Township, in lawful session duly assembled.

LOWER MACUNGIE TOWNSHIP  
BOARD OF COMMISSIONERS

  
\_\_\_\_\_  
Richard V. Ward, Vice President

Attest:

  
\_\_\_\_\_  
Renea Flexer, Secretary



# **EXHIBIT “A”**

## JUST COMPENSATION SETTLEMENT AGREEMENT

This Just Compensation Settlement Agreement (“Agreement”) is made and entered into by Ronald R. Muse, his representatives, heirs and assigns (“Condemnee”), and Lower Macungie Township (“Township”) (Condemnee and Township may be referred to herein as a “Party” or collectively as the “Parties”).

**WHEREAS**, Condemnee owns the property located at 7800 Creamery Road, Alburdis, Lower Macungie Township, Lehigh County, Pennsylvania, being Lehigh County Tax Parcel No. 546461698437-1 (the “Property”); and

**WHEREAS**, on August 6, 2021, pursuant to the Pennsylvania First Class Township Code (53 P.S. § 56901, *et seq.*) and Eminent Domain Code (26 Pa.C.S. § 101, *et seq.*), the Township filed a Declaration of Taking in the Court of Common Pleas of Lehigh County, Pennsylvania, at Docket No. 2021-C-1896 (the “Condemnation”), pursuant to which the Township acquired portions of the Property for required right-of-way (“ROW”) and temporary easements needed for roadway realignment and widening in the Township; and

**WHEREAS**, in effort to avoid the time and expense of prolonged litigation, the Parties have negotiated an amicable resolution of all just compensation, damages, and fees to be paid by the Township to the Condemnee pursuant to the Eminent Domain Code in connection with the Condemnation; and

**NOW THEREFORE**, for and in consideration of the covenants, agreements, promises, releases and payments referenced and provided for herein, the receipt and sufficiency of which are hereby acknowledged by the Parties, and with the intent to be legally bound hereby, the Parties agree to the following settlement:

1. **Compensation Payment.** Within forty-five (45) days after the effective date of this Agreement, the Township shall deliver to Condemnee a check made payable to Condemnee for \$15,000.00 (Fifteen Thousand Dollars and Zero Cents) as full and final payment of all just compensation, damages, and fee reimbursement relating to the Condemnation.

2. **Deliverables.** Condemnee shall deliver to the Township Solicitor, High Swartz LLP, the following:

- a. A copy of this Agreement signed by Condemnee; and
- b. A completed IRS Form W9 for Condemnee; and
- c. The Stipulation referenced in paragraph 4 below signed by Condemnee’s counsel.

3. **General Release.** In exchange for the consideration set forth herein, Condemnee fully releases and forever discharges the Township and its current and former commissioners, employees, consultants, engineers, contractors, insurers, attorneys, agents, representatives, and assigns from any and all further claims for compensation, property damage within the ROW and temporary easements, diminished property value, loss of use, delay damages, consequential damages, appraisal fees, attorney’s fees, engineering fees, interest, and all other compensation, damages and liability of every kind, which Condemnee had, has, or may have now or in the future, whether asserted or unasserted, known or unknown, arising out of or relating to the Condemnation.

4. **Notice to Court.** Within fourteen (14) days after the effective date of this Agreement, the Parties shall execute and file with the Court a stipulation confirming the amount and resolution of just compensation and damages in the Condemnation case, in the form attached hereto at Appendix A.

5. **Indemnification.** Condemnee shall indemnify, defend and hold harmless the Township from and against any claims, causes of action, and liability of any kind asserted against the Township by any mortgagees, lien holders or other parties making a claim to any compensation pertaining to the Condemnation, including but not limited to all reasonable attorney's fees incurred in the defense of any such claims.

6. **Effective Date.** This Agreement shall be considered accepted by the Condemnee upon delivery to the Township Solicitor, High Swartz LLP, of a copy of the Agreement signed by the Condemnee. However, the effective date of the Agreement shall be the date on which the Township Board of Commissioners ratifies the Agreement and authorizes its execution on behalf of the Township at a public meeting of the Board, which meeting shall occur no later than forty-five (45) days after the date on which Condemnee delivers their signed copy of the Agreement to the Township Solicitor.

7. **Compromise.** The Parties acknowledge that this Agreement is entered into as a compromise to resolve disputed issues and that nothing stated herein shall constitute or be considered an admission of liability by any of the Parties.

8. **Severability.** If any provision of this Agreement is deemed unenforceable by any court or tribunal having jurisdiction over the enforcement of the Agreement, then the remainder of this Agreement shall remain in full force and effect to the fullest extent practicable and allowable by law.

9. **Modifications.** No modification of this Agreement shall be valid and enforceable unless in writing and signed by Condemnee and the Township.

10. **Choice of Law.** This Agreement shall be construed and enforced under the laws of the Commonwealth of Pennsylvania.

11. **Entire Agreement.** This Agreement constitutes the entire agreement between Condemnee and the Township, and supersedes all prior negotiations and discussions regarding the subject matter of this Agreement, which are merged herein.

12. **Execution in Counterparts.** This Agreement may be signed in counterparts and the counterparts shall together constitute one complete document. An electronic, photocopied, scanned or facsimiled signature on this Agreement shall be deemed an original signature for purposes of enforcement.

13. **Full and Fair Review.** The Parties acknowledge that each has read and fully understands this Agreement, that each has had a full and fair opportunity to consult with counsel regarding this Agreement, that each has executed this Agreement freely and without coercion by any other Party, and that each Party representative has the authority to execute this Agreement on behalf of that Party. While the Township Solicitor has undertaken the initial draft of this Agreement, such draft has been submitted to Condemnee's attorney for full review, comment and revision as deemed

necessary. As such, this Agreement shall not be construed against its drafters, but shall be construed as if prepared jointly on behalf of all of the Parties hereto. Any uncertainty or ambiguity should not be interpreted against any Party identified in this Agreement.

IN WITNESS WHEREOF, Condemnee and the Township have hereunto set their respective, duly authorized hands:

CONDEMNEE:

Ronald R. Muse  
Ronald R. Muse

Date: 7/30/23

LOWER MACUNGIE TOWNSHIP:

By: \_\_\_\_\_  
Bruce Beitel  
Township Manager

Date: \_\_\_\_\_